UNITED STATES PATENT AND TRADEMARK OFFICE

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10/632,479	08/01/2003	Yuri Leontiev	INTU-990057	3014

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.
10/632,479</td><td>Applicant(s)
LEONTIEV ET AL.</td><td></td></tr>
<tr><td>Examiner
JOSHUA MURDOUGH</td><td>Art Unit
3621</td><td></td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _23 March 2009_.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _38-47_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _38-47_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination ("RCE") under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application

is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR

1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn

pursuant to 37 CFR 1.114. Applicant's submission filed on 23 March 2009 has been entered.

Acknowledgements

2.   This action is responsive to Applicants' RCE noted above and the associated amendments

received 23 March 2009.

3.   This action has been assigned paper number 20090605 for reference purposes only.

4.   Claims 38-47 are pending and have been examined.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   Claims 38-41, 46, and 47 are rejected under 35 U.S.C. §103(a) as being unpatentable

over Rabin (US 6,697,948) in view of Tinney (Organize Your Finances in a Weekend with

Quicken® 2000).

7.   As to claim 38, Rabin shows:

      a.   A computer implemented client method for dynamically managing a user

           software license, the method comprising:

      b.   receiving an action from the user **213** to access a software program

           (software(SW)) (Figure 12, step 370);

      c.   responsive to receiving the action from the user, sending a request (call up) to a

           server computer (guardian center) for an authorization to access the software

           program (Id.), the request including license verification information concerning

           the user (tag) (Figure 12, step 372), thereby allowing the server computer to

           determine whether current software license information concerning the user needs

           to be updated ("The supervising program determines that a call-up procedure is

           required," Column 16, lines 60-61) and, based on the determination, to store an

           update to the current software license information ("performs the call-up

           procedure to update the status of tags stored in the tag table," Column 16, lines

           63-64);

      d.   receiving current software license information concerning the user from the server

           computer (Figure 12, step 374); and

      e.   storing (an update stores new information) received current software license

           information concerning the user (Figure 12, step 375).

8.   Rabin does not expressly show that the validation is performed on a per feature basis.

9.   However, Tinney shows a list of features available to the user depending on the license

possessed (Pages 327-329). As the features the user is permitted to use depend on the license, it

would have been obvious to one of ordinary skill in the art at the time of the invention to have

modified the teachings of Rabin to verify the license when the user attempts to use a feature that

they may or may not have a license for in order to limit the user to only the features they are

licensed for and thus, have paid for.

10.   As to claim 39, Rabin further shows:

      f.   performing at least one step (Figure 12, step 376) from a group of steps

             comprising:

      g.   displaying a message to the user indicating that the user is not licensed to run the

             software program (Column 54, lines 14-17);

      h.   providing the user with an opportunity to purchase a license to run the software

             program (Column 59, lines 38-57);

      i.   allowing the user to run the software program without a license for a limited time

             only (Column 5, lines 36-53);

      j.   allowing the user to run the software program without a license a limited number

             of times only (Id.); and

      k.   terminating the software program, such that the user cannot run the software

             program (Column 54, lines 14-19).

11.   As to claim 40, Rabin further shows:

the received current software license information concerning the user comprises modified

license information concerning the user (the tag is modified in Figures 13A and

13B, therefore, the next time the tag is sent it would be modified).

12.   As to claim 41, Rabin further shows:

l.   the modified license information concerning the user comprises a user software

license from a group of user software licenses comprising:

m.   an activated user software license (installed, Figure 6);

n.   a deactivated user software license (gc_disabled, Id.);

o.   an extended user software license (continued, Id.);

p.   a restricted user software license (policy, Columns 55-56, lines 57-10);

13.   As to claim 46, Rabin shows:

q.   A computer readable medium **200** containing instructions that, when executed,

cause the computer system to perform desired actions for dynamically managing a

user software license, wherein the instructions comprise:

r.   program code for receiving an action from the user **213** to access a software

program (Figure 12, step 370);

s.   program code for, responsive to receiving the action from the user, sending a

request (call up) to a server computer (guardian center) for an authorization to

access the software program (Id.), the request including identification information

concerning the user, and license verification information concerning the user (tag)

(Figure 12, step 372), thereby allowing the server computer to determine whether

current software license information concerning the user needs to be updated

("The supervising program determines that a call-up procedure is required,"

Column 16, lines 60-61) and, based on the determination, to store an update to the

current software license information ("performs the call-up procedure to update

the status of tags stored in the tag table," Column 16, lines 63-64);

  t. program code for receiving current software license information concerning the

     user from the server computer (Figure 12, step 374);

  u. program code for storing (an update stores new information) received current

     software license information concerning the user (Figure 12, step 375); and

14. Rabin does not expressly show that the validation is performed on a per feature basis.

15. However, Tinney shows a list of features available to the user depending on the license

possessed (Pages 327-329). As the features the user is permitted to use depend on the license, it

would have been obvious to one of ordinary skill in the art at the time of the invention to have

modified the teachings of Rabin to verify the license when the user attempts to use a feature that

they may or may not have a license for in order to limit the user to only the features they are

licensed for and thus, have paid for.

16. As to claim 47, Rabin shows:

  v. A computer system for dynamically managing a user software license, the

     computer system comprising:

    w.   a mechanism for receiving an action from the user **213** to access a software

           program (software(SW)) (Figure 12, step 370);

    x.   a mechanism for, responsive to receiving the action from the user, sending a

           request (call up) to a server computer (guardian center) for an authorization to

           access the feature of the software program (Id.), the request including

           identification information concerning the user (fingerprint), and license

           verification information concerning the user (tag) (Figure 12, step 372), thereby

           allowing the server computer to determine whether current software license

           information concerning the user needs to be updated ("The supervising program

           determines that a call-up procedure is required," Column 16, lines 60-61) and,

           based on the determination, to store an update to the current software license

           information ("performs the call-up procedure to update the status of tags stored in

           the tag table," Column 16, lines 63-64);

    y.   a mechanism for receiving current software license information concerning the

           user from the server computer (Figure 12, step 374); and

    z.   a mechanism for storing received current software license information concerning

           the user (Figure 12, step 375).

17.   Rabin does not expressly show that the validation is performed on a per feature basis.

18.   However, Tinney shows a list of features available to the user depending on the license

possessed (Pages 327-329). As the features the user is permitted to use depend on the license, it

would have been obvious to one of ordinary skill in the art at the time of the invention to have

modified the teachings of Rabin to verify the license when the user attempts to use a feature that

they may or may not have a license for in order to limit the user to only the features they are

licensed for and thus, have paid for.

19.   Claims 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabin and

Tinney as applied to claim 38 above, and further in view of another embodiment of Rabin.

20.   As to claims 42-44, the Rabin/Tiney combination teaches as disclosed above, but does

not expressly teach:

> aa.   creating a current hardware configuration identifier of the computer associated
>
> with the user; and
>
> bb.   comparing the received hardware configuration identifier to the current hardware
>
> configuration identifier.

21.   However, Rabin teaches, outside of the embodiment used above, the use of a hardware

identifier, specifically a processor identifier, compared with the stored value to enable, or prevent

the use of software (Columns 1-2, lines 57-2). Therefore, it would have been obvious to one of

ordinary skill in the art at the time of the invention to have further modified the teachings of the

first embodiment of Rabin to use a processor identifier in the authentication of the user device

because hardware identifiers are more difficult to alter.

22.   As to claim 45, Rabin further shows:

> cc.   performing at least one step (Figure 12, step 376) from a group of steps
>
> comprising:

dd.   displaying a message to the user indicating that the user is not licensed to run the

        software program (Column 54, lines 14-17);

ee.   providing the user with an opportunity to purchase a license to run the software

        program (Column 59, lines 38-57);

ff.   allowing the user to run the software program without a license for a limited time

        only (Id.); and

gg.   allowing the user to run the software program without a license a limited number

        of times only (Column 54, lines 14-19).

Terminal Disclaimer

23.   The terminal disclaimer filed on 23 March 2009 disclaiming the terminal portion of any

patent granted on this application which would extend beyond the expiration date of a patent

issued on pending application 10/684,955 has been reviewed and is accepted. The terminal

disclaimer has been recorded.

Response to Arguments

24.   Applicant's arguments filed 23 March 2009 have been fully considered but they are not

persuasive.

25.   <u>Applicants argue</u>:

26.   "[N]either Rabin or Tinney disclose, either explicitly or implicitly, a server computer

which receives a request from a client computer for an authorization to access a feature of a

software program, and in response to receiving the request, the server determines whether

current software license information concerning the user needs to be updated" (Remarks, Page 7,

Paragraph 4).

27.   Examiner's response:

28.   Rabin does show determining if the license information, which pertains to the tag stored

on the user's device, needs to be updated upon a request, or call-up, to use the software. Rabin

further shows the updating of the information in the tag table if the update is deemed necessary.

29.   Moreover, the limitation "thereby allowing the server computer to determine whether

current software license information concerning the user needs to be updated and, based on the

determination, to store an update to the current software license information" is not a positive

recitation of steps to be performed. The phrase "allowing the server computer to determine"

requires that there is no active prevention of the server computer from making the determination.

The storing of the update ("to store an update to the current software license information") is

allowed as well. Thus there is no active step being performed for this part of the claim either.

This limitation is also dependent (based) on the determining which is not positively recited.

Therefore, "based on the determination, to store an update to the current software license

information" results in storing if the determination which is not necessarily made, shows that it is

needed.

30.   Applicants argue:

31.   "Applicant respectfully notes that the client computer and the server can continue to

exchange software license information to dynamically update the software license as a user

operates the software program over time" (Remarks, Page 8, Paragraph 1).

32.   Examiner's response:

33.   The Examiner agrees, "the client computer and the server **can** continue to exchange

software license information" (emphasis added). However, as noted above, this is not required

by the claims.

34.   Applicants argue:

35.   "Applicant respectfully notes that Rabin does not disclose a server computer which

determines whether current software license information concerning the user needs to be

updated, and which updates the software license accordingly" (Remarks, Page 8, Paragraph 2).

36.   Examiner's response:

37.   The Examiner respectfully disagrees. The Examiner directs Applicants' attention to the

last paragraph of column 16 in Rabin, as cited above. Rabin determines whether the tag

information needs to be updated, and if it does, updates the information.

38.   Applicants argue:

39.   "Tinney does not disclose anywhere, either explicitly or implicitly, a server computer

which determines whether current software license information concerning the user needs to be

updated" (Remarks, Page 9, Paragraph 1).

40.   Examiner's response:

41.   The Examiner has not relied upon Tinney to teach this concept. Therefore, this argument

is moot.

Conclusion

42.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-

3270. The Examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

43.   If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's

supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

44.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough
Examiner, Art Unit 3621

/Calvin L Hewitt II/
Supervisory Patent Examiner, Art Unit 3685